

PUBLIC LAW 104-188—**AUG 20, 1996** 110 STAT.
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"(i) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if such property were real property acquired by a real estate investment trust, and
" (ii) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

"(B) AUTHORITY TO REDUCE GRACE PERIOD.—In the case of property other than real property and other than personal property incident to real property, the Secretary may by regulation reduce for purposes of subparagraph (A) the periods otherwise applicable under paragraphs (2) and (3) of section 856(e).

"(d) STARTUP DAY.—For purposes of this part—
"(1) IN GENERAL.—The term "startup day" means the date designated in the election under subsection (a)(3) as the startup day of the FASIT. Such day shall be the beginning of the first taxable year of the FASIT.

"(2) TREATMENT OF PROPERTY HELD ON STARTUP DAY.—All property held (or treated as held under section 860I(c)(2)) by an entity as of the startup day shall be treated as contributed to such entity on such day by the holder of the ownership interest in such entity.

"(e) TAX ON PROHIBITED TRANSACTIONS.—
"(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions. Such tax shall be paid by the holder of the ownership interest in the FASIT.

"(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term "prohibited transaction" means—

"(A) the receipt of any income derived from any asset that is not a permitted asset.

"(B) except as provided in paragraph (3), the disposition

of any permitted asset.

"(C) the receipt of any income derived from any loan originated by the FASIT and

"(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

"(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

"(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

"(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or

"(ii) section 860F(a)(5) if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.